



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Steve Tate, Mayor	Steve Tate, Chair
Larry Carr, Mayor Pro Tempore	Larry Carr, Vice-Chair
Mark Grzan, Council Member	Mark Grzan, Agency Member
Marby Lee, Council Member	Marby Lee, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

WEDNESDAY, JUNE 6, 2007

AGENDA

JOINT MEETING

CITY COUNCIL REGULAR MEETING

and

REDEVELOPMENT AGENCY REGULAR MEETING

7:00 P.M.

CALL TO ORDER

(Mayor/Chairperson Tate)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

CERTIFICATES OF APPRECIATION

Participation in "Public Works Awareness Day" Activities

P.A. Walsh School

St. Catherine's School

RECOGNITIONS

Outgoing Planning Commissioner

Ralph Lyle

Outgoing Architectural and Site Review Board Commissioner

Jerry Pyle

CERTIFICATES OF RECOGNITION

Exchange Club Blue & Gold Award for Outstanding Police Work

Police Corporal Bill Norman

Police Reserve Officer Ken DeLuna

CITY COUNCIL REPORTS

Council Member Lee

CITY COUNCIL COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

City Council Action

CONSENT CALENDAR:

ITEMS 1-7

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

1. **CITY SPORTS FIELD RESIDENT RATE CRITERIA**
Recommended Action(s): **Approve** the Revision of the Sports Field Resident Rate Criteria from 85 Percent to 60 Percent.
2. **PURCHASE OF PUBLIC WORKS VEHICLE**
Recommended Action(s):
 1. **Authorize** Purchase of a Three-Yard Dump Truck Through the State of California General Services Procurement Process for a Total Cost of \$43,819; and
 2. **Declare** Vehicles as Surplus and **Authorize** Sale at Auction.
3. **AMENDMENT TO HOUSEHOLD HAZARDOUS WASTE COLLECTION SERVICES AGREEMENT**
Recommended Action(s): **Authorize** the City Manager to Execute the Amendment to the Agreement with the County; Subject to the Inclusion of Funding in the Adopted Fiscal Year 2007-2008 City Budget and the Review and Approval of the City Attorney.
4. **AMENDMENT TO COUNTYWIDE AB-939 IMPLEMENTATION FEE AGREEMENT**
Recommended Action(s): **Authorize** the City Manager to Execute the Amendment with the County; Subject to Review and Approval by the City Attorney.
5. **AMEND RESOLUTION REGARDING TEMPORARY AND SEASONAL EMPLOYEE COMPENSATION**
Recommended Action(s): **Amend** Resolution No. 6062 Regarding Temporary and Seasonal Employee Compensation.
6. **AMENDMENT OF COMMUNITY DEVELOPMENT DEPARTMENT CONSULTANT AGREEMENTS**
Recommended Action(s): **Authorize** the City Manager, Subject to Review and Approval by the City Attorney, to Execute the Amendments to Existing Community Development Department Agreements.
7. **ADOPT ORDINANCE NO. 1838, NEW SERIES** 8
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1838, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, AMENDING CHAPTER 1.24 OF TITLE 1; AND AMENDING VARIOUS CHAPTERS [6.08.020, 6.08.030, 6.12.180 THROUGH 6.12.200, 6.24.030, 6.24.035, 6.28.010, 6.28.040, 6.32.080] OF TITLE 6; AND ADDING VARIOUS CHAPTERS [6.28.025, 6.28.035, AND 6.28.070 THROUGH 6.28.140] TO TITLE 6 AND DELETING CHAPTER 6.24.085 OF TITLE 6 OF THE MORGAN HILL MUNICIPAL CODE REGARDING POTENTIALLY DANGEROUS DOGS AND DANGEROUS AND VICIOUS ANIMALS, AS AMENDED.**

Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 8

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Time Estimate	
Consent Calendar: 1 - 10 Minutes	
8. <u>AWARD OF ULTRAVIOLET TREATMENT SYSTEMS PROJECT FOR THE AQUATICS CENTER AND COMMUNITY AND CULTURAL CENTER INTERACTIVE WATER FOUNTAINS</u>	26
Recommended Action(s):	
1. Award Contract in the Amount of \$118,861 to Knorr Systems, Inc. to Furnish and Install Two Ultraviolet Treatment Systems; and	
2. Authorize Expenditure of Construction Contingency Funds not to Exceed \$11,886.	

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 9

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Time Estimate	
Consent Calendar: 1 - 10 Minutes	
9. <u>APPROVE JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF MAY 18, 2007</u>	34

City Council Action

PUBLIC HEARINGS:

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Time Estimate	
10. 10 Minutes <u>2007 HAZARDOUS BRUSH PROGRAM COMMENCEMENT REPORT</u>	36
Public Hearing Opened.	
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
Council Discussion.	
Action- Accept 2007 Hazardous Brush Program Commencement Report.	

City Council and Redevelopment Agency Action

PUBLIC HEARINGS:

	Page
Time Estimate	
11. 30 Minutes <u>PUBLIC HEARING ON PROPOSED FISCAL YEAR 2007-2008 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGET</u>	40
Public Hearing Opened.	
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
Council Discussion.	
Action- Discuss the Fiscal Year 2007-2008 Proposed Budget.	

PUBLIC HEARINGS:

Time Estimate

Page

12. 10 Minutes **UNITED WAY 2-1-1 PROGRAM FUNDING REQUEST**.....
Recommended Action(s):
 1. **Receive** Presentation by United Way Representatives; and
 2. Council **Discretion** on Funding United Way’s 2-1-1 Call Center for \$5,000.

City Council Action

PUBLIC HEARINGS:

Time Estimate

Page

13. 20 Minutes **APPLICATION, ZA-07-06: TEXT AMENDMENT – RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSC) STANDARDS AND CRITERIA**.....
- Public Hearing Opened.
- Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
- Council Discussion.
- Action- **Motion to Waive** the Reading in Full of Ordinance.
- Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)

City Council Action

OTHER BUSINESS:

Time Estimate

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- | | |
|--|--|
| <p>14.</p> <p>5 Minutes</p> | <p><u>STATE LAW MANDATED ORDINANCE DESCRIBING THE MORGAN HILL REDEVELOPMENT AGENCY'S NON-PROGRAM TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN</u>.....</p> <p><u>Recommended Action(s):</u> <u>Introduce</u> the Ordinance by Title Only and <u>Waive</u> the First and Second Reading of the Ordinance.</p> |
| <p>15.</p> <p>10 Minutes</p> | <p><u>CIVIC CENTER MASTER PLAN AND CONSULTANT AGREEMENT FOR NEW DEVELOPMENT SERVICE CENTER</u>.....</p> <p><u>Recommended Action(s):</u> <u>Authorize</u> the City Manager to Execute the Professional Services Agreement in the Amount of \$316,360 for Development Service Center Interior Design with a \$40,000 Contingency, Subject to Review and Approval by the City Attorney.</p> |

FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

City Council Action

CLOSED SESSION:

- 1.**
- PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
- | | |
|---|-----------------------------|
| Authority | Government Code 54957 |
| Public Employee Performance Evaluation: | City Attorney |
| Attendees: | City Council, City Attorney |

City of Morgan Hill
Regular City Council and
Regular Redevelopment Agency Meeting
June 6, 2007
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OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

ADJOURNMENT

PUBLIC COMMENTS ON ITEMS *NOT* APPEARING ON AGENDA

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action, your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

NOTICE

AMERICANS WITH DISABILITIES ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

NOTICE

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 6, 2007

Agenda Item #

7

Prepared By:

A handwritten signature in black ink, likely belonging to the Municipal Services Assistant.

Municipal Services
Assistant

Approved By:

A handwritten signature in black ink, likely belonging to the City Clerk.

City Clerk

Submitted By:

A handwritten signature in black ink, likely belonging to the City Manager.

City Manager

ADOPT ORDINANCE NO. 1838, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, AMENDING CHAPTER 1.24 OF TITLE 1; AND AMENDING VARIOUS CHAPTERS [6.08.020, 6.08.030, 6.12.180 THROUGH 6.12.200, 6.24.030, 6.24.035, 6.28.010, 6.28.040, 6.32.080] OF TITLE 6; AND ADDING VARIOUS CHAPTERS [6.28.025, 6.28.035, AND 6.28.070 THROUGH 6.28.140] TO TITLE 6 AND DELETING CHAPTER 6.24.085 OF TITLE 6 OF THE MORGAN HILL MUNICIPAL CODE REGARDING POTENTIALLY DANGEROUS DOGS AND DANGEROUS AND VICIOUS ANIMALS

RECOMMENDED ACTION(S):

Waive the Reading, and Adopt Ordinance No. 1838, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On May 23, 2007, the City Council Introduced Ordinance No. 1838, New Series; amending Sections 6.12.200 A. and 6.12.20 B.6. (Potentially dangerous dogs – Regulations) to include: "...and may require the owner or person having a right to control the dog to attend dog obedience, or such other class as may be determined appropriate by the administrator, with the dog" by the Following Roll Call Vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

None. Filing fees were paid to the City to cover the cost of processing this application.

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ORDINANCE NO. 1838, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, AMENDING CHAPTER 1.24 OF TITLE 1; AND AMENDING VARIOUS CHAPTERS [6.08.020, 6.08.030, 6.12.180 THROUGH 6.12.200, 6.24.030, 6.24.035, 6.28.010, 6.28.040, 6.32.080] OF TITLE 6; AND ADDING VARIOUS CHAPTERS [6.28.025, 6.28.035, AND 6.28.070 THROUGH 6.28.140] TO TITLE 6 AND DELETING CHAPTER 6.24.085 OF TITLE 6 OF THE MORGAN HILL MUNICIPAL CODE REGARDING POTENTIALLY DANGEROUS DOGS AND DANGEROUS AND VICIOUS ANIMALS

WHEREAS, Title 1, Chapter 1.24 of the City of Morgan Hill Municipal Code regulates the general penalties of violating the City of Morgan Hill Municipal Code;

WHEREAS, Title 6, Chapter 6.08 of the City of Morgan Hill Municipal Code regulates the administration and enforcement of Title 6 within the City of Morgan Hill;

WHEREAS, Title 6, Chapter 6.12 of the City of Morgan Hill Municipal Code regulates dogs and cats within the City of Morgan Hill;

WHEREAS, Title 6, Chapter 6.24 of the City of Morgan Hill Municipal Code regulates the restrictions on animals within the City of Morgan Hill;

WHEREAS, Title 6, Chapter 6.28 of the City of Morgan Hill Municipal Code regulates dangerous animals within the City of Morgan Hill;

WHEREAS, Title 6, Chapter 6.32 of the City of Morgan Hill Municipal Code regulates the impoundment of animals within the City of Morgan Hill;

WHEREAS, amendments to Title 1, Chapter 1.24 and Title 6, Chapters 6.08, 6.12, 6.24, 6.28, and 6.32 are necessary to reflect statutory and administrative enforcement changes and enhance clarity of intent;

WHEREAS, additional sections to Title 6, Chapter 6.28 are necessary to reflect statutory and administrative enforcement changes and enhance clarity of intent;

WHEREAS, the public health, safety, and welfare require amendments and additions to the Code to address issues related to potentially dangerous, dangerous, and vicious animals within the City limits;

WHEREAS, the City of Morgan Hill has experienced an increase in the number of incidents of dogs attacking people and other domestic animals due to the expanding commercial and residential development within City limits;

WHEREAS, dogs with the potential for criminal or negligent misuse by felons have become a serious and widespread threat to the safety and welfare of citizens statewide;

WHEREAS, in the last five years, potentially dangerous dogs owned by felons have assaulted without provocation and seriously injured numerous persons, particularly children and the elderly, and have killed numerous dogs and terrorized neighborhoods;

WHEREAS, other cities have reported problems with people involved in the illegal drug trade keeping dangerous dogs to attack law enforcement officers;

WHEREAS, most of these attacks are due at least in part to the failure of the owners to register, confine, and properly control vicious and potentially dangerous dogs and in part to the tendency of criminals and convicted felons to use these dogs for criminal purposes; and

WHEREAS, the Morgan Hill Police Department has observed people convicted of drug related felonies using potentially dangerous dogs to threaten police officers.

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN
AS FOLLOWS:**

SECTION 1: Section 1.24.010 of Chapter 1.24 of Title 1, sections 6.08.020 and 6.08.030 of Chapter 6.08, sections 6.12.180 through 6.12.200 of Chapter 6.12, sections 6.24.030 and 6.24.035 of Chapter 6.24, sections 6.28.010 and 6.28.040 of Chapter 6.28 and section 6.32.080 of Chapter 6.32 of Title 6 of the Morgan Hill Municipal Code are hereby amended as stated in the following italicized and underlined portions:

SECTION 2: Subsection 6.24.085 Regulation of potentially dangerous dogs of Chapter 6.24 of Title 6 is hereby deleted from the Morgan Hill Municipal Code as duplicative of subsection 6.12.200 of Chapter 6.12 of Title 6.

SECTION 3: Chapters 6.28.025, 6.28.035 and 6.28.070 through 6.28.140 of Title 6 are hereby added to the Morgan Hill Municipal Code.

Title 1 GENERAL PROVISIONS

1.24.010 Violations deemed a misdemeanor-Penalty.

A. Except as provided in Chapter 10.08 pertaining to civil penalties for parking violations, whenever in this code, any act is prohibited or is made or is declared to be unlawful, or an offense, or the doing of any act is required, or the failure to do any act is declared to be unlawful or a misdemeanor, the violation of any such provision of this code shall not be considered a misdemeanor, but rather an infraction, punishable not by imprisonment, but by a fine not exceeding the maximum allowed under state law for such infraction. Each day such violation continues shall be regarded as a new and separate offense.

B. Each separate offense determined to be an infraction shall be punishable by: (1) A fine not exceeding one hundred dollars for a first violation; (2) A fine not exceeding two hundred dollars for a second violation by the same person of the same ordinance within one year of the date of the first violation; (3) A fine not exceeding five hundred dollars for a third and each additional violation by the same person of the same ordinance within one year of the date of the first violation.

C. Any offenses which are to continue to be treated as misdemeanors rather than infractions shall be specifically mentioned in amendments to this section.

D. Notwithstanding the provisions of subsection A of this section, violations of the following code sections and chapters are to be treated as misdemeanors punishable upon conviction by a fine not exceeding one thousand dollars or imprisonment in the county jail for a period not to exceed six months or by both such fine and imprisonment:

1. Section 2.44.130	Civil disaster and emergency organization-Violations-Penalties
2. Chapter 5.12	Bingo Games
3. Chapter 5.20	Community Antenna Television
4. Chapter 5.32	Massage Establishments
5. Section 6.24.035 <u>Chapter 6.24</u>	Animal bites-causing injury <u>Restrictions</u>
6. Chapter 6.28	Dangerous Animals
7. Section 6.32.070(B)	Impoundment-Hearing prior to animal deprivation
8. Chapter 6.36	Animals and Land Use
9. Chapter 8.04	Restaurants and Food Establishments
10. Chapter 9.04	Weapons
11. Chapter 13.20	Sewers and Industrial Waste
12. Chapters 15.04-15.24	Administrative, Building, Electrical, Mechanical, Plumbing and Housing Codes
13. Chapter 15.44	Fire Prevention Code
14. Chapter 15.56	Abatement of Dangerous Buildings
15. Chapter 18.42	Flood Damage Prevention

E. Notwithstanding any other provision of this code, whenever a violation of Section 9.04.010 or any section contained in Chapters 15.08, 15.12, 15.16, 15.20, 15.24 and 15.56 is punishable as a misdemeanor, the city attorney may specify that the offense is an infraction, and proceed with prosecution as an infraction, unless the defendant objects to the offense being made an infraction, in which event the court may elect to have the complaint amended to charge as a misdemeanor, and the case shall proceed on a misdemeanor charge. (Ord. 1528 N.S. § 5, 2001; Ord. 1442 N.S. § 18, 1999; Ord. 1320 N.S., §§ 1, 2, 1997; Ord. 1198 N.S. § 3, 1994; Ord. 1192 N.S. § 1, 1994; Ord. 1172 N.S. § 1, 1994; Ord. 1130 N.S. § 2, 1993; Ord. 1109 N.S. § 1, 1993; Ord. 918 N.S. § 1, 1989; Ord. 906 N.S. § 12, 1989; Ord. 820 N.S. § 4 (part), 1987; Ord. 778 N.S. § 1 (part), 1986; Ord. 496 N.S. § A, 1979; Ord. 225 N.S. § 6, 1968)

Title 6 ANIMALS

Chapter 6.08 ADMINISTRATION AND ENFORCEMENT

6.08.020 Inspection-Authority-Procedure.

A. The administrator, animal control officer or any peace officer shall have the power to enter upon and inspect any premises where any animal is kept or harbored when ~~such entry is necessary to enforce~~ *the administrator, animal control officer or any peace officer has probable cause to believe there has been a violation of* the provisions of Chapters 6.04 through 6.32 of this title. ~~A search warrant shall be obtained whenever required by law.~~

B. Such entry and inspection shall be made only after the occupant of the premises has been given written and oral notice of the inspection by the administrator, animal control officer or peace officer. If the land is unoccupied, the administrator, animal control officer or peace officer shall make a reasonable effort to locate the owner or other person having control of the property before making entry.

C. Notwithstanding the foregoing, if the administrator, animal control officer or peace officer has reasonable cause to believe the keeping or maintaining of any animal is so hazardous as to require an immediate inspection to save the animal or protect public health or safety, he or she shall have the power to immediately enter and inspect the property without the use of unreasonable force. If the property is occupied, the administrator, animal control officer or peace officer shall first attempt to notify the occupant and demand entry. (Ord. 1209 N.S. (part), 1995; Ord. 822 N.S. § 3, 1987; Ord. 553 N.S. § A (part), 1981)

6.08.030 Violation-Penalty.

A. Violation of any of the provisions of Chapters *6.24*, 6.28, 6.36 and Section 6.32.070 of this title constitutes a misdemeanor. Each day a violation continues shall be regarded as a new and separate offense. The punishment upon conviction shall be: a fine not exceeding one thousand dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

B. Violation of any of the other provisions of this title constitutes an infraction. The punishment upon conviction shall be:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year; or

3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

C. For purposes of this section, a bail forfeiture shall be deemed to be a conviction of the offense charged.

D. Violation of Section 6.12.020 or Section 6.24.030 by the owner of an unsterilized dog shall be twice the fine for a sterilized dog. However, if an owner voluntarily sterilizes such dog within fifteen days of receiving a citation, and provides veterinary evidence to the animal control officer that such surgery was successfully performed, the enhanced fine shall be waived and the owner shall only remit the fine for a sterilized animal.

E. In addition to any other relief, any reasonable costs incurred by the city in seizing, impounding and for confining any dangerous animal shall be a charge against the owner. Such charge shall be in addition to any fine or penalty provided for violations of this chapter. (Ord. 1518 N.S. § 2, 2001; Ord. 1442 N.S. § 6, 1999; Ord. 1320 N.S. § 4, 1997; Ord. 1209 N.S. (part), 1995; Ord. 822 N.S. § 4, 1987; Ord. 553 N.S. § A (part), 1981)

Chapter 6.12 DOGS AND CATS

6.12.180 Potentially dangerous dogs-Classified.

“Potentially dangerous dog” means a dog which has been classified as potentially dangerous at one of three levels based upon specific behavior exhibited or possession of certain characteristics as described in this section as follows:

A. Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal; is unlicensed pursuant to Chapter 6.12 of this title; has escaped its enclosure on one prior occasion; or is a member of a breed of dog which in the five years preceding its designation has been identified as responsible for at least two deaths of persons in the United States as documented by statistics compiled by the United States Humane Society.

B. Level 2 behavior is established if a dog is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person; if a dog, while under restraint or on a leash, aggressively bites any person; or while at large, aggressively bites or causes physical injury to any person or domestic animal; or while restrained or confined in accordance with this chapter, aggressively bites any person.

C. Level 3 behavior is established if a dog, whether or not confined, causes the serious injury or death of any person; while at large, kills or causes a serious or life threatening injury to any domestic animal; engages in or is found to have been trained to engage in exhibitions of fighting; ~~or~~ has been classified as a Level 2 potentially dangerous dog and repeats the behavior described in subsection B of this section after the owner receives notice of the Level 2 classification; is a dog seized under Section 599aa of the Penal Code, as may be amended, where the owner or keeper has been convicted under subdivision (a) of Section 597.5 of the California Penal Code, as may be amended; or is a dog used in the commission of a crime that constitutes a misdemeanor or a felony.

D. Notwithstanding subsections A through C of this section, the administrator shall have discretionary authority to refrain from classifying a dog as potentially dangerous, even if the dog has engaged in the behaviors specified in subsections A through C of this section, if the administrator determines that the behavior was the result of ~~the victim abusing or tormenting the dog or other extenuating circumstances.~~ In any case, no dog shall be classified as potentially

dangerous if the behavior in question was directed against a trespasser inside any fully enclosed building or fenced area on private property. one or more of the following circumstances:

1. The injury or damage was sustained by a person who at the time of the injury or damage was sustained: was teasing, assaulting, abusing or tormenting the dog; was committing a willful trespass or other tort upon the private property of the owner or person having a right to control the dog; or was committing or attempting to commit a crime.

2. The injury or damage was sustained by a domestic animal that, at the time the injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog, or trespassing upon the private property of the owner or person having the right to control the dog.

3. The dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

4. The injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, or predator control dog on the property of, or under the control of its owner or the person having a right to control the dog, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

E. Dogs used by public police agencies are exempted from the classifications under subsections A through C of this section for behaviors or characteristics exhibited in their capacity with the public police agency. (Ord. 1442 N.S. § 7, 1999)

6.12.190 Potentially dangerous dogs-Classification procedure.

A. The administrator or his/her designate shall have authority to determine whether any dog has engaged in the behaviors or exhibits any of the characteristics specified in Section 6.12.180. This determination shall be based upon an investigation that includes the observations of and testimony about the dog's behavior or characteristics, including, but not limited to, the dog's upbringing and the owner's control of the dog. These observations and testimony can be provided by animal control officers or other witnesses who personally observed the animal's behavior or characteristics. The witnesses shall sign a written statement attesting to this behavior.

B. The administrator or animal control officer shall give the dog's owner written notice by certified mail or personal service of the dog's specified behavior or characteristics and the dog's classification as a potentially dangerous dog with the additional restrictions, as outlined in Section 6.12.200 of this title, applicable to that dog by reason of its classification. If the owner denies that the behavior in question occurred, the owner may request a hearing before the administrator which shall be conducted in accordance with the provisions of Section 6.32.080. The owner and any other persons having relevant evidence concerning the dog's behavior as specified in the written notice shall be allowed to present testimony. The administrator shall determine whether behavior or characteristics specified in Section 6.12.180 were exhibited or possessed by the dog in question. The administrator shall issue an order containing its determination, which shall be final.

C. Once the owner has received notice of the dog's classification as a Level 1, 2 or 3 potentially dangerous dog pursuant to subsection B of this section, the owner shall comply with restrictions specified in the notice until such time as the administrator's final decision is issued. Failure to comply with the specified restrictions pending the completion of all appeals shall be a violation of this chapter. Additionally, the administrator shall have authority to impound the dog pending completion of all appeals.

D. If the administrator finds that a dog has engaged in Level 3 behavior, the dog may be impounded pending completion of all appeals. If the administrator's final decision is that the dog engaged in Level 3 behavior, the dog's owner shall be liable for the cost of the dog's impoundment.

E. If there are no additional instances of behavior described in 6.12.180 within a thirty-six month period from the date of final designation as a Level 2 potentially dangerous dog, the owner may petition the administrator to remove or reclassify the dog's designation as a potentially dangerous dog Level 2.

F. The imposition of regulations pursuant to this section shall not prevent the administrator from also issuing a citation pursuant to Section 6.08.030.

G. Upon a conviction for a second violation of any provision of this title, the administrator or animal control officer may order impoundment of the dog. (Ord. 1442 N.S. § 8, 1999)

6.12.200 Potentially dangerous dogs-Regulations.

In addition to the other requirements of this chapter, the owner of a potentially dangerous dog shall comply with the following regulations:

A. If the dog has engaged in Level 1 behavior or has been designated a Level 1 potentially dangerous dog, the dog shall be restrained by a physical device or structure that prevents the dog from reaching any public sidewalk or adjoining property whenever that dog is outside the owner's home and not on a leash under the control of a person at least eighteen years of age and who is physically capable of restraining the animal. The administrator shall adopt administrative rules establishing specifications for the required device or structure. The administrator may require that the dog's owner prove financial responsibility, including posting a bond or certificate of insurance in the amount of fifty thousand dollars, and may require the owner or person having a right to control the dog to attend dog obedience, or such other class as may be determined appropriate by the administrator, with the dog.

B. If the dog has engaged in Level 2 behavior or has been designated a Level 2 potentially dangerous dog, the following regulations shall apply:

1. The owner shall confine the dog within a building or secure enclosure whenever the dog is not inside the home of the owner or on a leash as described below. Such kennel, pen or structure must have secure sides and a secure top attached thereto. Such enclosure must be constructed in a manner so that it cannot be broken down by any action of the confined dog. All structures used for confinement of such animals must be locked with a key or combination lock of sufficient strength to insure confinement of such animals. Such structures must be erected upon a secure bottom or floor constructed of concrete or other materials sufficient to prevent the animal from digging free. Sides of the structure shall be imbedded not less than two feet into the ground behind a solid fence not less than six feet in height. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's property.

2. A Level 2 dog may be permitted off the premises only when it is securely muzzled, and is leashed on a leash not to exceed three feet in length and under the control of a person eighteen years of age or older, and who is physically capable of restraining the animal. The leash must be capable of restraining four times the weight of the animal. The leash must be attached to an escape-proof commercial quality walking harness which fastens securely across the shoulders and mid-chest encompassing the rib area and upper abdomen of the dog. No collar of any type or material will be sufficient to satisfy the above requirements. Level 2 potentially

dangerous dogs shall not be leashed or tethered at any time to inanimate objects such as trees, posts or buildings. The muzzling device must be constructed so that it is impossible for the dog to remove it without human assistance.

3. Transportation of Level 2 potentially dangerous dogs shall only be in locked animal carriers equivalent in construction quality to those used by commercial air carriers.

4. No Level 2 potentially dangerous dog shall be left unconfined nor unattended in or about any motor vehicle.

5. Level 2 potentially dangerous dogs enclosed in a house, apartment, building or similar structure shall be allowed only where the windows and doors of the structure are secured to prevent such dog from exiting without the assistance of the owner or person with the right to control such dog.

6. The administrator may require that the Level 2 potentially dangerous dog owner prove financial responsibility including posting a bond or certificate of insurance in the amount of one hundred thousand dollars, and may require the owner or person having a right to control the dog to attend dog obedience, or such other class as may be determined appropriate by the administrator, with the dog.

7. A person owning or having charge of a dog classified as a Level 2 potentially dangerous dog shall post warning signs on the property where the dog is kept, in conformance with the provisions of Section 6.28.050.

8. To insure correct identification, all dogs that have been classified as Level 2 potentially dangerous shall be marked with a permanent identifying mark. The administrator shall adopt rules specifying the character, location and manner of this marking. The owner of the dog shall provide, at the owner's expense, at least two dated, colored photographs depicting a full frontal, facial view and one full side view clearly showing the color and approximate size of the dog.

C. Any dog that has been found to have engaged in Level 3 behavior as described in Section 6.12.180 shall be euthanized.

D. In addition to the normal licensing fees established by the city council, there may be an annual fee for dogs that have been classified as potentially dangerous. This additional fee set in resolution, shall be imposed at the time the license of the potentially dangerous dog expires and shall be payable at the time the license is renewed. (Ord. 1442 N.S. § 9, 1999)

Chapter 6.24 ANIMAL RESTRICTIONS

6.24.030 Animals running at large.

It is unlawful for any person owning or having control of any animal, whether licensed or not, to cause, permit or allow such animal to stray or run at large upon any public street or other public place, or upon any private place or property or common area of any planned development, cluster, townhouse or condominium project without the consent of the owner or person in control thereof, except that nothing contained in this section shall apply to dogs on a leash, held by a person capable of controlling the dog, or to dogs which are off-leash in a specially designated off leash dog park as authorized by the City or to cats. (Ord. 1442 N.S. § 12, 1999; Ord. 1209 N.S. (part), 1995; Ord. 553 N.S. § A (part), 1981).

6.24.035 Animal bites causing injury.

It is unlawful for any person owning or having control of any animal, whether confined or not, to keep, maintain, cause, permit or allow such animal to bite another person or domestic animal which causes serious injury to that person or domestic animal. For the purpose of this section, serious injury means any injury which requires treatment other than basic first aid. (Ord. 1442 N.S. § 13, 1999)

6.24.085 Regulation of potentially dangerous dogs.

In addition to the other requirements of this chapter, the owner of a potentially dangerous dog shall comply with the following regulations:

~~A. — If the dog has engaged in Level 1 behavior or has been designated a Level 1 potentially dangerous dog, the dog shall be restrained by a physical device or structure that prevents the dog from reaching any public sidewalk or adjoining property whenever that dog is outside the owner's home and not on a leash under the control of a person at least eighteen years of age and who is physically capable of restraining the animal. The administrator shall adopt administrative rules establishing specifications for the required device or structure. The administrator may require that the dog's owner prove financial responsibility, including posting a bond or certificate of insurance in the amount of fifty thousand dollars.~~

~~B. — 1. — If the dog has engaged in Level 2 behavior, the owner shall confine the dog within a building or secure enclosure whenever the dog is not inside the home of the owner or on a leash as described below. Such kennel, pen or structure must have secure sides and a secure top attached thereto. Such enclosure must be constructed in a manner so that it cannot be broken down by any action of the confined dog. All structures used for confinement of such animals must be locked with a key or combination lock of sufficient strength to insure confinement of such animals. Such structures must be erected upon a secure bottom or floor constructed of concrete or other materials sufficient to prevent the animal from digging free. Sides of the structure shall be imbedded not less than two feet into the ground behind a solid fence not less than six feet in height. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's property. A Level 2 dog may be permitted off the premises only when it is securely muzzled, and is leashed on a leash not to exceed three feet in length and under the control of a person eighteen years of age or older, and who is physically capable of restraining the animal. The leash must be capable of restraining four times the weight of the animal. The leash must be attached to an escape-proof commercial quality walking harness which fastens securely across the shoulders and mid-chest encompassing the rib area and upper abdomen of the dog. No collar of any type or material will be sufficient to satisfy the above requirements. Level 2 potentially dangerous dogs shall not be leashed or tethered at any time to inanimate objects such as trees, posts or buildings. The muzzling device must be constructed so that it is impossible for the dog to remove it without human assistance.~~

~~2. — Transportation of Level 2 potentially dangerous dogs shall only be in locked animal carriers equivalent in construction quality to those used by commercial air carriers.~~

~~3. — No Level 2 potentially dangerous dog shall be left unconfined nor unattended in or about any motor vehicle.~~

~~4. — Level 2 potentially dangerous dogs enclosed in a house, apartment, building or similar structure shall be allowed only where the windows and doors of the structure are secured~~

~~to prevent such dog from exiting without the assistance of the owner or person with the right to control such dog.~~

~~5. The administrator may require that the Level 2 potentially dangerous dog owner prove financial responsibility including posting a bond or certificate of insurance in the amount of one hundred thousand dollars.~~

~~C. A person owning or having charge of a dog classified as a Level 2 potentially dangerous dog shall post warning signs on the property where the dog is kept, in conformance with the provisions of Section 6.28.050.~~

~~D. Any dog that has been found to have engaged in Level 3 behavior as described in Section 6.04.010(O) shall be euthanized.~~

~~E. To insure correct identification, all dogs that have been classified as Level 2 potentially dangerous shall be marked with a permanent identifying mark. The administrator shall adopt rules specifying the character, location and manner of this marking. The owner of the dog shall provide, at the owner's expense, at least two dated, colored photographs depicting a full frontal, facial view and one full side view clearly showing the color and approximate size of the dog.~~

~~F. In addition to the normal licensing fees established by the city council, there may be an annual fee for dogs that have been classified as potentially dangerous. This additional fee set in resolution, shall be imposed at the time the license of the potentially dangerous dog expires and shall be payable at the time the license is renewed. (Ord. 1209 N.S. (part), 1995; Ord. 822 N.S. § 11, 1987)~~

Chapter 6.28 DANGEROUS ANIMALS

6.28.010 Permit required.

No person shall keep, have, maintain, sell, trade or let for hire a dangerous and/or vicious animal, including a potentially dangerous dog, Level 1, 2, or 3, without first obtaining a permit from the administrator. The application for a permit, permit conditions, inspection, denial, revocation and appeal shall be the same as set forth in Sections 6.20.010, 6.20.030 through 6.20.070 and 6.20.090 of this title. Compliance with the rules and regulations set by this title and the administrator shall be prerequisite to the issuance and continued validity of any permit provided pursuant to this title. This section shall not apply to any assistance dog, including guide dogs, signal dogs and service dogs, trained or in training to assist a qualified individual with a disability (Ord. 1209 N.S. (part), 1995; Ord. 553 N.S. § A (part), 1981)

6.28.025 Permit-Application-Conditions.

A. An application for a permit to maintain or keep a dangerous and/or vicious animal, including a potentially dangerous dog, Level 1, 2, or 3 shall be in writing on a form approved by the administrator. The application shall be made by the animal owner or person having a right to control the animal.

B. The application shall contain the following information:

1. The name, address and telephone number of the owner and other person having a right to control the animal;

2. The animal's name and description;

3. A statement specifying all convictions within the past five years of the owner or any persons having a right to control the animal, by any court of law, for any violation of this title, or of any other law(s) relating to animals, public nuisance caused by animals, or cruelty to animals in this or any other state, and any citations issued for violations of this title which were upheld by a hearing officer or which were not contested by the applicant. For purposes of this section, a forfeiture of bail shall be deemed to be conviction of the offense charged;

4. The number of the license issued to the applicant pursuant to Chapter 6.12; and

5. At least two dated, colored photographs depicting a full frontal, facial view and one full side view clearly showing the color and approximate size of the dog.

6.28.035 Permit-Inspection of premises.

By having obtained a permit under this chapter, the owner or person having the right to control the animal thereby consents to allow the administrator or his authorized representative to inspect the premises where the animal is located at any reasonable time and in a reasonable manner. Inspections under this section are not subject the requirements of Section 6.08.020 of Chapter 6.08 of Title 6.

6.28.040 Permit-Denial or revocation.

A. Notwithstanding anything to the contrary, the administrator may deny or revoke any permit issued pursuant to this chapter in the following situations:

1. ~~Any such animal may not be kept or maintained without endangering the safety of any person or persons or property~~ Whenever the administrator determines by inspection or upon complaint from any person that the owner or person having a right to control the potentially dangerous, dangerous, or vicious animal has failed to meet any of the provisions of Title 6 or any conditions of the permit, or has failed to meet any other requirement for maintenance of the animal under this chapter or other applicable law;

2. Whenever the administrator has reason to believe that the applicant or permit holder has willfully withheld or falsified any information required for a permit;

3. If the applicant or permit holder has been convicted within the past five years, by a court of law, for any violation of this chapter, or any other law(s) relating to animals, public nuisance caused by animals, or cruelty to animals in this or any other state, and any citations issued for violations of this title which were upheld by a hearing officer or which were not contested by the applicant. For the purposes of this chapter, a bail forfeiture shall be deemed to be a conviction of the offense charged;

4. Whenever the owner fails to pay in full all fines, and impound, boarding or other outstanding fees;

5. Whenever the owner or person having a right to control the potentially dangerous, dangerous, or vicious animal fails to allow the administrator or animal services officer to conduct a lawful inspection of the potentially dangerous, dangerous, or vicious animal or the premises where the animal is located;

6. Whenever the owner or person having a right to control the potentially dangerous, dangerous, or vicious animal fails to appear at a compliance hearing to appeal the revocation of the permit for a potentially dangerous, dangerous, or vicious animal;

7. Whenever the keeping or maintenance of any such animal endangers the safety of any person or persons or property;

8. Whenever the keeping of the animal would constitute a public nuisance; or
9. Whenever the animal would be subject to suffering, neglect, cruelty or abuse.

B. The administrator, in his discretion, may require any such animal to be properly caged, tethered or restrained in zoo-type facilities that meet or are in addition to, or more restrictive than, state guidelines issued under the provisions of Section 671 of Title 14 of the California Administrative Code and federal standards issued under Chapter 1 of Title 9 of the Code of Federal Regulations. Nothing in this section shall be construed to permit the keeping of dangerous animals where zoning provisions or state law would prohibit such keeping. (Ord. 1209 N.S. (part), 1995; Ord. 553 N.S. § A (part), 1981)

6.28.070 Permit-Denial or revocation-Appeal procedures.

A. Prior to denial or revocation of a permit issued pursuant to this chapter, the administrator shall notify the applicant in writing of the intent to deny or revoke the permit, the reasons for such denial or revocation, and that the applicant may make a written request for a hearing before the administrator within five days after receipt of such notice if he wishes to challenge the denial or revocation.

B. The administrator shall set the time and place for hearing and cause notice of such hearing to be mailed to the person requesting such hearing at least five days before the date of the hearing. The hearing shall be conducted according to Section 6.32.080 of this title.

6.28.080 Permit-Denial or revocation-Time restrictions for reapplication.

If a permit under this Chapter has been denied or revoked, the administrator shall not be required to accept a new permit application from the same applicant for two years from the date of such denial or revocation.

6.28.090 Prohibition of owning, possessing, controlling or having custody.

Any person having a right to control a potentially dangerous, dangerous, or vicious animal may be prohibited from owning, possessing, controlling or having custody of any dog for up to three years, if the hearing officer determines, after a hearing, that ownership or possession of a potentially dangerous, dangerous, or vicious animal by that person would create a significant threat to the public health, safety, and welfare. Thereafter, such persons must demonstrate to the administrator that he or she is capable of directly restraining the animal he or she seeks to own, possess, control, or have custody of.

6.28.100 Prohibited dog ownership by convicted felons.

A. Any person who has been convicted of a felony under the laws of the United States, of the state of California, or any other state, government, or country, who owns, purchases, receives, or has in his or her possession or under his or her custody or control a dog that poses a danger to the public's health, safety or welfare if misused by a convicted felon is guilty of a misdemeanor, unless the person possesses a current, valid prohibited dog permit for that dog as provided in this Chapter. A convicted felon under this Title shall not include felons whose convictions were set aside pursuant to Penal Code Section 1203.4. "Misuse" by a convicted felon means use of a dog in a threatening or aggressive manner, or in the commission of a crime.

B. Any dog whose owner or keeper is in violation of this section shall be impounded, or impounded subject to destruction, at the owner's expense.

C. A dog that poses a danger to the public's health, safety or welfare if misused by a convicted felon under this section means any of the following:

1. A dog weighing more than twenty pounds;
2. A dog who has been designated a potentially dangerous Level 1, 2, or 3 under Chapter 6.12 of this Title;

3. A dog designated by the administrator as posing a danger to the public's health, safety or welfare if misused by a convicted felon based upon the following factors:

- (i) The nature of any complaints regarding the dog,
- (ii) The strength of the dog, including jaw strength,
- (iii) The dog's tolerance for pain,
- (iv) The dog's tendency to refuse to terminate an attack,
- (v) The dog's potential propensity to bite humans or other domestic animals,
- (vi) The dog's potential for unpredictable behavior,
- (vii) The dog's aggressiveness, or
- (viii) The likelihood that a bite by the dog will result in serious injury.

6.28.110 Prohibited dog permit.

Any convicted felon who wishes to own, purchase, receive or have in his or her possession or under his or her custody or control a dog weighing more than twenty pounds under Section 6.28.100(c)(1) of this chapter, or a dog that the administrator designates as posing a danger to the public's health, safety or welfare if misused by a convicted felon under Section 6.28.100(c)(3) of this chapter, may apply for a prohibited dog permit to own, keep or maintain that dog. If there is probable cause to believe that a dog poses a danger to the public's health, safety or welfare if misused by a convicted felon, the dog may be impounded pending a determination made under this article and until any required permit is obtained. If the administrator designates a dog as posing a danger to the public's health, safety or welfare if misused by a convicted felon, written notice of this designation shall be mailed to the owner or person having a right to control the dog. The owner or person having a right to control the potentially dangerous dog must pay an application fee and apply for the prohibited dog permit within fifteen calendar days after the mailing of the written notice of designation. The administrator may deny a prohibited dog permit if he or she determines that the dog poses a danger to the public's health, safety or welfare, or may condition the issuance of the permit upon the permittee's written agreement to comply with conditions of ownership to be determined by the administrator. These conditions of ownership may include, but are not limited to, those found under Section 6.12.200 of this Title. A prohibited dog permit may subsequently be revoked by the administrator if there is probable cause to believe that the convicted felon's continued ownership of the dog poses a danger to the public's health, safety or welfare.

6.28.120 Permit-Expiration and renewal-Late penalty.

A. Any permit issued under this chapter shall expire twelve months from the date of issuance. The procedure for the renewal of a permit shall be the same as for an original permit.

B. Upon failure to make application for the renewal of a permit within thirty days of the expiration of a permit, or prior thereto, the applicant shall pay, in addition to the permit fee, a ten-dollar penalty for late renewal.

6.28.130 Permit-Nontransferable.

Permits issued pursuant to the provisions of this chapter are not transferable.

6.28.140 Appeal hearing.

At the appeal hearing, petitioner and the animal control division may be represented by counsel, may present oral and written evidence, and may cross-examine witnesses. Strict rules of evidence need not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs. The petitioner shall be given written notice of the decision within fifteen days of the hearing. The administrator shall order the animal released without conditions, released with conditions, shall designate the animal vicious, dangerous and/or potentially dangerous Level 1, 2 or 3 and order release with conditions, or as for dogs designated Level 3 shall order the animal destroyed. The decision of the administrator shall be final and shall be supported by the weight of the evidence. Any release conditions imposed by the administrator shall be solely in the interest of protecting public health, safety and property and may include the obligation to inform, along with animal control, any city, county, postal, service utility company, employee, meter reader, and anyone else that comes on the property with implied consent or peaceably and lawfully of the animal's dangerousness.

Chapter 6.32 IMPOUNDMENT

6.32.080 Appeal hearing.

At the appeal hearing, petitioner and the animal control division may be represented by counsel, may present oral and written evidence, and may cross-examine witnesses. Strict rules of evidence need not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The petitioner shall be given written notice of the decision within fifteen days of the hearing. The administrator shall order the animal released without conditions, released with conditions, shall designate the animal vicious, dangerous and/or potentially dangerous Level 1, 2 or 3 and order release with conditions, or as for dogs designated Level 3 shall order the animal destroyed. The decision of the administrator shall be final and shall be supported by the weight of the evidence. Any release conditions imposed by the administrator shall be solely in the interest of protecting public health, safety and property and may include the obligation to inform, along with animal control, any city, county, postal, service utility company, employee, meter reader, and anyone else that comes on the property with implied consent or peaceably and lawfully of the animal's dangerousness ~~if the animal is moved into an area~~ (Ord 1209 N.S. (part), 1995; Ord. 822 N.S. § 16, 1987; Ord. 553 N.S. § A (part), 1981)

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Morgan Hill held on the 23rd day of May 2007, and was finally adopted at a regular meeting of said Council on the day of June 2007, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Steve Tate, Mayor

§ CERTIFICATE OF THE CITY CLERK §

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1838, New Series, adopted by the City Council of the City of Morgan Hill, California at a regular meeting held on the day of June 2007.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

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REDEVELOPMENT AGENCY

MEETING DATE: June 6, 2007

AWARD OF ULTRAVIOLET TREATMENT SYSTEMS PROJECT FOR THE AQUATICS CENTER AND COMMUNITY AND CULTURAL CENTER INTERACTIVE WATER FOUNTAINS

RECOMMENDED ACTION(S):

1. Award contract in the amount of \$118,861.00 to Knorr Systems, Inc. to furnish and install two Ultraviolet Treatment Systems.
2. Authorize expenditure of construction contingency funds not to exceed \$11,886.00

Agenda Item # 8

Prepared By:

MGC

Management Analyst

Approved By:

St M

Director/Recreation &
Community Services
Department

Submitted By:

J

Executive Director

EXECUTIVE SUMMARY:

The scope of work for this project includes furnish and installation of a turnkey Ultraviolet (UV) Treatment system at the Aquatics Center (AC) and Community and Cultural Center (CCC).

The bid opening was held on May 31, 2007, at 2:00 pm. The bids received are listed below. The low bidder has many years of experience in the installation of UV Treatment Systems. Staff recommends award of the contract to Knorr Systems, Inc. This project is scheduled to begin in June 2007 and be completed by August 2007.

Knorr Systems, Inc.	\$118,861.00
Pacific Water Art, Inc.	\$159,000.00

An incident in September 2006 brought the contamination of the waterborne cryptosporidium protozoa to the attention of local health officials; when several children became ill after playing in the fountain located at San Jose's Plaza de Cesar Chavez Park. After health officials tested the water, it was found to have the cryptosporidium protozoa which are found in human and animal feces. The Santa Clara County Department of Environmental Health (SCCDEH) contacted all public facilities with spray features and conducted water sample testing to determine if there was any cryptosporidium present and to insure there were appropriate water testing and treatment protocols in place. All tests conducted at AC and CCC were negative.

The City of Morgan Hill's two spray features located at CCC and AC do not have the recommended treatment systems. The spray feature located at the Centennial Recreation Center (built in 2006) has the UV Treatment system. Staff has invested a significant amount of time working with County officials and independently evaluating the issue. Staff recommends the City enhance each interactive water fountain to ensure the City complies with the SCCDEH's new requirements. Exhibit A provides additional information about cryptosporidium and the events that have occurred to this point.

FISCAL/RESOURCE IMPACT:

The Business Assistance and Housing Economic Development Programs budget has the resources to pay for the interactive water fountain enhancements. The addition of UV Treatment Systems at CCC and AC will result in an increase in annual operating expenses of \$4,950.00 (nine months of operation) at CCC and \$1,650 (three months of operation) at AC; for required water testing and utility charges

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Memorandum

Recreation and Community Services Department

Date: May 16, 2007
To: Ed Tewes, City Manager
Steve Rymer, Director of Recreation and Community Services
From: Angela Papp, Recreation Supervisor
Therese Lugger, Recreation Supervisor
Subject: Interactive Water Fountain Enhancement Recommendation

Background:

An incident in September 2006, brought the contamination from the waterborne cryptosporidium protozoa for water spray features to the attention of the local health officials when several children became ill after playing in a fountain located at Plaza de Cesar Chavez Park in downtown San Jose. After health officials tested the water, it was found to have the cryptosporidium protozoa which are found in human and animal feces. If the infected water is swallowed, it can cause nausea, diarrhea, and in worse cases, death. Soon after this discovery, the Santa Clara County Department of Environmental Health (SCCDEH) contacted all public facilities with spray features and conducted water sample testing to determine if there was any cryptosporidium present and to insure there were appropriate water testing and treatment protocols in place.

The City of Morgan Hill's two spray features located at the Cultural Center (built in 2002) and the Aquatic Center (built in 2004) do not have the recommended treatment systems because this requirement is new as of Spring 2007. The spray feature located at the Centennial Recreation Center (built in 2006) has the ultraviolet system in place that in combination with chlorine and proper filtration kills the protozoa. All tests conducted at the CCC and AC spray features in Morgan Hill came back negative. After the test results, the CCC's fountain was turned back on and opened to the public. The AC's fountain has not been operating since it is the off season.

[It is important to note that neither the State of California nor Santa Clara County have regulations for interactive water fountains. The City has always been in compliance with SCCDEH standards for operating the City's water features (including pools and interactive fountains) though the recent event in San Jose has changed the SCCDEH's regulatory efforts.]

After the initial water testing, the SCCDEH was to follow up with water treatment recommendations during the winter months so that operators would have sufficient time to

address this issue. City Staff attempted to discuss this issue over the winter months with representatives from SCCDEH. There were several messages left and when staff did talk with the SCCDEH, we were informed that they were still working on their recommendation. Staff indicated that we were interested in their recommendation and would like to review them.

On April 2, 2007, an article appeared in the *San Jose Mercury News*, entitled Reused Water Draws Scrutiny at Play Fountains. This article informed the public of the presence of the microscopic parasite cryptosporidium at Cesar Chavez Park and that it is shut down until the City of San Jose can afford to retrofit the fountain with the recommended treatment system with the anticipated costs to be in excess of \$600,000. One of the subheadings in the article was **Warning to Morgan Hill** since recycled chlorinated water is used without the presence of the recommended UV or ozone treatment systems. The CCC's fountain was immediately turned off as a precautionary measure while staff worked with County officials. It will remain off until a ultraviolet system is installed.

After the newspaper article was published on April 2, 2007, City staff contacted the SCCDEH and asked Environmental Specialist, Mr. Ernie Wong to attend a meeting in Morgan Hill to share the guidelines and recommendations that they were providing to the operators of the 22 interactive water features (there are 10 that use recycled water). Mr. Wong attended the meeting on April 4, 2007 along with the three facility supervisors and the two facility specialists from the CCC and AC. He handed out the recommendations currently used by SCCDEH (though not Board approved), which are: the New York State regulations, dated July 19, 2006 and the California Conference for the Directors of Environmental Health (CCDEH) Guidelines for Construction and Operation of Interactive Water Fountains, dated June 12, 2001. Mr. Wong also supplemented these recommendations with some practical applications to protect the City from liability, such as: testing every two operational hours to insure that chlorine and PH are within the recommended levels and monthly testing for cryptosporidium conducted by an independent lab. The SCCDEH has a website listing independent laboratories that conduct testing for cryptosporidium at www.ehinfo.org under the link *consumer protection/water/labs*.

Mr. Wong indicated that there were several vendors in the area that can evaluate our current filtration system to determine which treatment system, a) ultraviolet light or b) ozone, would be the most compatible with our spray features. He mentioned that Knorr Systems was just one of many that could install ozone and UV devices and provide an estimate of costs. Staff contacted the following vendors: Bill Maillet with Knorr Systems at 800-321-7946, Dirk Rohloff with Pacific Water Works at 650-968-2733, Aquatics Technology at 800-446-6416 and Lincoln Equipment at 800-223-5450. Staff also contacted the following individuals, representing cities in the county, that have been doing research on treatment systems to retrofit their spray features: Tim Boyer with the City of Los Gatos Public Works Dept. at 399-5770, Terry Greene with the City of Cupertino Public Works Dept. at 777-3382; Walter Dunkle with Gilroy Gardens at 840-7100, and Jessie Soto with Paramount's Great America at 986-5915. At the time of the conversations with these people, Gilroy Garden's and Paramount's Great America were going to have the UV treatment system installed by Knorr System's, the City of Los Gatos uses an ozonator treatment system, that along with their daily treatment protocol, do not need to do any additional improvements, the City of Cupertino is still studying their options.

There are five locations that need to treat the water at their spray features, they are: Great America, Gilroy Gardens, City of San Jose, City of Cupertino, and City of Morgan Hill. The other spray features operate using fresh water, not recycled water. The city of San Jose is being retrofitted with a UV system by Pacific Water Art with an estimated cost of \$630,000. Knorr System is working with Great America and Gilroy Gardens with an estimated cost of \$15,000 each.

On May 3, 2007, staff received an e-mail from Ms. Rochelle Gaddi stating the SCCDEH's "Basic Requirements for Pre-existing Interactive Fountains." These include:

1. Recirculation, filtration, chlorine disinfection, and medium pressure ultraviolet light disinfection (energy band in the bactericidal region of 200 nm to 315 nm).
2. Submit a plan showing the spray pad spray features, number of spray features, volume etc.
3. Submit plan check fee in the amount of \$552.00 and a plan check application form.
4. Submit equipment specifications of ultraviolet light treatment system.
5. Show hose bibb locations adjacent to the spray pad for washing of the spray pad.
6. Show the nearest restroom facilities and diaper change areas.
7. Show signage and rules for people using the spray pad (i.e. children with diarrhea problem or infants in diapers should not play in this spray feature). These must be posted in public view adjacent to the spray pad.
8. Develop policy of fecal accident (refer to attachment from CDC-Centers for Disease Control).
9. Submit monthly bacteriological/cryptosporidium test results to our department during operation.

On May 4, 2007, the Director of Recreation and Community Services sent a formal request to the SCCDEH asking them to approve the opening of the Aquatics Center's interactive fountain prior to installing an ultraviolet system. Staff believes that our comprehensive management practices provide a safe environment for our patrons and meet the requirements for public health. On May 9, 2007, Ms. Gaddi formally responded and informed staff that the SCCDEH would not approve opening the AC's interactive fountain until an ultraviolet system is installed.

Since the SCCDEH's response, staff has continued to work with the County to discuss alternative operating plans for the AC until a UV system is installed. A final decision will be made prior to opening the AC on Saturday, May 26.

What is Cryptosporidium?

According to the Center for Disease Control, the definition of cryptosporidium is a germ that causes diarrhea and is found in infected people's stool and cannot be seen by the naked eye. This germ is protected by an outer shell that allows it to survive for long periods of time and makes it resistant to chlorine disinfection found in pools. Chlorine does kill the germs that may

make people sick, but it takes time. The contact time (CT) for giardia is 45 minutes per 1ppm of chlorine. In comparison, Crypto can remain viable in properly chlorinated water for six to seven days because the CT is 9,600 minutes. Hence it can stay active for at least one week in properly chlorinated spray features. The size of crypto is 4 to 6 microns and sand systems filter down to 25 microns. Super chlorination methods are recommended by some health departments to deal with the suspicion of *crypto* in pools. The super chlorination is typically 20 to 30 ppm of chlorine for 8-12 hours. This method may vary depending on local health regulations. However, the CDC reported in 2004 that there was no conclusive evidence to prove complete eradication of crypto using this recommended method. According to microbiology studies at Arizona State University (Charles Gerba, PhD, "Preventing Waterborne Disease in Hot Water," 1999), even a clean, showered swimmer can introduce 0.1 gram of fecal material into pool water. With the possibility of billions of chlorine-resistant Crypto cysts present in pool water, it is easy to see how swimmers can become infested, since one serious fecal accident can lead to a mouthful of water containing a fully infectious dose of the parasite. Recent studies conducted by the EPA have shown that the average adult swimmer swallows up to 1 ounce of water when swimming (Water Ingestion During Swimming Activities in a Pool: A Pilot Study." *Journal of Water and Health*, April 4, 2006). Children usually swallow twice that amount. Pools with a higher bather load are at greater risks for an outbreak.

The first human cases of *Cryptosporidium* infection were reported in 1976. The first reported outbreak of waterborne Crypto was in Texas in 1984. The most recent large outbreak occurred in the summer of 2005 at a spray park in New York. The outbreak infected as many as 4,000 people and spread to 36 New York counties, 26 states and two countries.

Alternatives Considered:

Staff has spent a considerable amount of time researching options. The SCCDEH provided three options for considerations:

1. ozone
2. fresh water circulation
3. ultraviolet light

Ozone

It is important to note that SCCDEH has recently informed the city that they would not approve an ozone system. Staff believed it was important to further evaluate it to have a more comprehensive understanding of treatment options. There are several different types of ozone systems and we are still looking into which ones are the most effective.

Advantages: None other than perhaps price. Ozone systems work in synergy with the proper filtration, chlorine and PH being in balance.

Disadvantages: Ozone needs more contact time to kill crypto than UV. At the CCC it would be 10 minutes and at the AC 56 minutes. These ozone systems give off a gas that needs to be ventilated which would be an additional cost. Using ozone gas in the underground vault at the CCC is a dangerous proposition since it is colorless, odorless and may collect in the vault at poisonous levels and would be harmful to maintenance workers who enter the vault. An 80 gallon tank would be needed and the pit is too small to accommodate this size tank. There would be additional costs to add the tank either by enlarging the underground vault or by digging a hole

to accommodate the tank. The Knorr System representative indicated that many cities were replacing ozone with ultra violet treatment systems because they are more effective, easier and less costly to maintain. The Knorr representative indicated that the vault confinement area was too small to retrofit with an ozone system.

Fresh water circulation

Advantages: No treatment is necessary because fresh water is being used.

Disadvantages: It would be costly to increase the holding tank capacity to collect the gray water and additional plumbing would be needed to connect to the existing irrigation systems at the AC and CCC to circulate the gray water. The public may perceive that the City is wasting water especially during times of drought. Water costs are \$1.71 per unit, a unit is 748 gallons of water.

Fresh water system costs: Unknown

Medium pressure Ultraviolet lighting treatment systems

Advantages: UV does kill *crypto* with no poisonous gas given off as a by-product. UV is mandated by the State of New York for the treatment of water in all spray features. It has a shorter contact time than ozone. These UV System works in synergy with the proper filtration, chlorine and PH being in balance.

Disadvantages: They are costly to install. UV bulb life is estimated at 12 months and costs approximately \$1000.

Operational Protocol

Monthly testing is recommended with any treatment system to insure that the water is safe, sanitary and healthy and free of cryptosporidium. Independent testing costs approximately \$500 per test. Testing requires the collection of 10 liters of water and can be performed by Test America, contact Vince Vantil at 925-260-2675.

Plan Check

When a treatment system is determined the specifications and installation plans must be sent to the Santa Clara Department of Environmental Health for evaluation and approval. The plan check costs \$552 and takes approximately 4 weeks. Plans should be sent to Ernie Wong, Department of Environmental Health Services, 1555 Berger Drive, Suite 300, San Jose, CA 95112-2716.

Recommendations:

CCC

It is recommended to retrofit the spray features with a medium pressure UV treatment system. At the CCC, there needs to be protocols in place for the following: daily testing, diarrhea fecal accidents, formed stool fecal accidents, regular mechanical maintenance checks, daily record keeping and monthly cryptosporidium independent testing. The posting of signs to educate the

public on recreation water illnesses (RWI) and what the public can do to keep the water safe for all to enjoy should be posted at all facilities.

Since the CCC shut-off switch is located in the vault and there is a two person requirement to enter the vault, a shut-off switch needs to be placed outside the vault so it can be shut-off when an accident occurs on weekends. The circuit breaker to shut the spray feature down is located in the electrical service room (located on the south side of the kitchen exterior entrance), panel CLN4, breakers 1, 3, & 5. If a fecal accident occurs the spray feature must be shut down until the pad is cleaned and the water is clean, safe and sanitary following the CDC guidelines as outline in Addendum C. Hours of operation need to be evaluated by Recreation Department staff. If weekend hours are not operational, this would reduce hours of public and party package program access.

AC

The spray feature at the Aquatics Center has never been treated any differently than any other pool. Each pool (including the spray feature) has its own filtration and chemical sanitation system hooked up to it. AC staff believes that their comprehensive management practices provide a safe environment for our patrons. Our efforts include, but are not limited to;

- The spray feature at the Aquatics Center is treated the same as all other City-owned pools. The interactive fountain has its own filtration and chemical sanitation system. The systems are checked a minimum of three times per day to ensure that the proper level of chlorine is present and that the PH is balanced.
- The City will continue to employ a lifeguard responsible for supervising the interactive fountain whenever it is open.
- If there is a fecal accident in any pool (including the interactive fountain) at the Aquatics Center, the City has very strict procedures that every lifeguard and manager is trained and responsible to follow.
- In addition to the City's strict rules on swim diapers, we will be enhancing our efforts by requiring that all children under the age of three years old wear a second protective plastic swim diaper over their primary one.
- Signage will also be located around this feature educating the public on how to avoid recreational water illnesses.
- The City adheres to the Center for Disease Control's guidelines and regulations.
- The City has records from the day that the facility opened detailing its proactive management practices.

The SCCDEH has recently come out with guidelines, as described in this report, that they want all SCC interactive fountains to follow. These are not State or County requirements, but recommendations that they are asking us to follow. They were taken from the New York State requirements that were put into place earlier this year.

The Aquatics Center will be opening to the public on Saturday, May 26, 2007, and will be operating full time starting June 9. We have several birthday parties and school groups booked the first month that we are open who will be relying on this feature to be operational during their visit.

**CITY OF MORGAN HILL
JOINT SPECIAL CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – MAY 18, 2007**

CALL TO ORDER

Mayor/Chairman Tate called the meeting to order at 10:15 a.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Lee, Sellers and Mayor/Chairman Tate

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

1. CITY MANAGER'S RECOMMENDED FISCAL YEAR 2007-08 BUDGET

City Manager Ed Tewes presented Council with an overview of the day's agenda. Following that, the Financial Overview, General Fund Revenues and Staffing Summary were explained in detail by Director of Finance, Jack Dilles.

Santa Clara County Fire Chief Ken Waldvogel provided the City Council with a summary of the recently commissioned customer service survey stating that the department will keep Council informed as to the services that are/will be provided by the Fire Department. Council Member Grzan inquired as to the actual response time the city is experiencing. Chief Waldvogel will research the response times by each station and provide that information to Council.

The following City Department Directors presented their specific departmental budgets: Janet Kern, City Attorney; Mary Kaye Fischer, Human Resources Department; Irma Torrez, Council and Records Management; Brian Stott, City Manager's Office; Jack Dilles, Finance Department; Kathy Molloy Previsich, Community Development Department; Garrett Toy, Director of Business Assistance and Housing Services Department; Bruce Cumming, Police Department; Steve Rymer, Recreation and Community Services Department; and Jim Ashcraft, Public Works Department

Business Assistance and Housing Services Director Toy discussed the new Business Improvement Organization which is built into the contract with the Chamber of Commerce (Chamber). Discussion ensued regarding the Chamber being self sustaining, and Chamber Executive Director Dan Ehrler addressed the Council; assuring them that the Chamber is working on establishing Morgan Hill as the "Gateway to the Central Coast".

Council Member Grzan expressed concerns about the economic benefit for businesses that join the

Chamber of Commerce. Mr. Ehrler described the various ways the Chamber is advertising regionally and locally, and explained that they are working on bringing people to Morgan Hill.

Karl Bjarke, Public Works Department, presented the Capital Improvement Program. Various projects were discussed and Council Member Carr asked if Main Avenue and Dunne Avenue upgrades can be included in the RDA/downtown plan since they are corridors to the Civic Center. Mr. Bjarke will research this and provide Council with an answer.

Wrap-up and Next Steps

The May 23, 2007 agenda will contain updates to the Police Department budget that was inadvertently omitted. It was announced that on June 6, 2007, the City Council would conduct a public hearing on the Fiscal Year 2007-08 Budget, and that the adoption of the Budget is scheduled for June 13, 2007.

Council Member Grzan inquired as to a possible name change for the Friendly Inn, and expressed his pleasure with staff and their presentations. He further stated he is happy to go out to the community and explain that the City is conducting its business in a proper manner.


FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chair Tate adjourned the meeting at 4:03 p.m.

MINUTES RECORDED AND PREPARED BY:



LISA LEWIS, OFFICE ASSISTANT II
OFFICE OF THE CITY CLERK



CITY COUNCIL STAFF REPORT

MEETING DATE: June 6, 2007

2007 HAZARDOUS BRUSH PROGRAM COMMENCEMENT REPORT AND PUBLIC HEARING

RECOMMENDED ACTIONS:

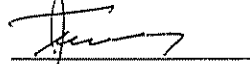
1. Accept 2007 Hazardous Brush Program Commencement Report
2. Open/Close Public Hearing

Agenda Item # **10**

Prepared By:


Council Services &
Records Manager

Submitted By:


City Manager

EXECUTIVE SUMMARY:

As part of the 2007 Hazardous Vegetation Management Program, Santa Clara County Fire Department staff have inspected properties in the Hazardous Hillside area. Property owners in these regions are obliged to meet special property maintenance guidelines to reduce the threat of fire. In particular, they must remove brush on their property that could provide fuel for a fire and increase the chances that fire on one property would spread to an adjoining property.

The Council adopted Resolution 6073 on December 20, 2006, declaring hazardous vegetation to be a nuisance and ordering its removal. The resolution also set the June 6, 2007 public hearing date for the brush abatement program. Brush abatement notices have been mailed to property owners of 14 parcels in Morgan Hill whose properties have been identified as having, or potentially having, a problem with hazardous brush. In addition, notice of this public hearing has been published in the *Morgan Hill Times* per Government Code Section 39556.

The purpose of this public hearing is to hear from property owners who object to having their property in the brush abatement portion of the 2007 Hazardous Vegetation Management Program. The list of properties in the Brush Program, attached as Exhibit A, has been posted at City Hall for ten days prior to this public hearing as required.

The City controls the growth of hazardous vegetation under the authority set out in Chapter 8.20 of the Morgan Hill Municipal Code and in Government Code Sections 39560 and following. The City has a contract with the Santa Clara County Fire Marshal's Office which provides for County abatement of the property if the property owner does not maintain the property as required. If the work is completed by the Fire Marshal's Office contractor, costs for the work are added to the owner's property tax assessment.

The County's contractor will complete abatement work during the month of June. Staff plans to return to the Council on July 27, 2007 to present a list of property assessments. The assessments must be submitted to the County Assessor's Office prior to August 10, 2007.

FISCAL IMPACT: The Hazardous Vegetation Management Program is user fee supported. The per-lot assessment includes the actual costs for controlling vegetation plus the overhead cost to manage the program.

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**2007 BRUSH PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

Situs	APN		CITY/STATE	
2115	ROLLING	Dr 764-02-006	Nance Lewis p & Joanne	2115 Rolling Hills Dr Morgan Hill CA 95037-9437
2150	GREENWOOD	AV 764-03-007	NIN, SIGFREDO I & Rebbecca B	2150 GREENWOOD AV MORGAN HILL CA 95037-9439
17655	BLACK OAK	CT 764-03-011	LAPORTE, EVERETT R JR & ELEN J	3462 BELLA VISTA CT SANTA CLARA CA 95051-2116
17630	BLACK OAK	764-03-013	FOSTER, J ROBERT & NANCY C	17630 BLACK OAK CT MORGAN HILL CA 95037-9442
1980	ROCKY RIDGE	RD 764-03-019	THEOPHILUS WALTER STEADING JR	1980 ROCKY RIDGE RD MORGAN HILL CA 95037-9443
1960	ROCKY RIDGE	RD 764-03-020	HOLMES, ROBERT W & MICHELLE M	1960 ROCKY RIDGE RD MORGAN HILL CA 95037
17675	WOODLAND	AV 764-03-039	SHIRLEY, LORRAINE C TR/FAM TRT	775 CORDOVA CT MORGAN HILL CA 95037-5810
17625	WOODLAND	CT 764-03-040	SHAHROKHI, SHOKOUFEH	17625 WOODLAND CT MORGAN HILL CA 95037-9444
17610	WOODLAND	AV 764-03-043	BELLI, KAREN M	17610 WOODLAND AV MORGAN HILL CA 95037-9140
1740	LLAGAS	RD 773-18-009	CONROY, RONALD G & KAREN C	1740 LLAGAS RD MORGAN HILL CA 95037-9447
17996 1862	DEER RUN	CT 773-18-026	MADHVANI, SHARON LEE TR/TR	17996 DEER RUN CT MORGAN HILL CA 95037-9446
1862	LLAGAS	RD 773-18-029	RIVERA, MIREYA D	1862 LLAGAS RD MORGAN HILL CA 95037-9445
1390	LLAGAS	RD 773-20-003	MANIS, JIMMY D	1390 LLAGAS RD MORGAN HILL CA 95037-9160
1200	LLAGAS	RD 773-20-013	KEWISH, CHARLES WARREN &	2969 IROQUOIS DR PROVO UT 84604

CITY OF MORGAN HILL

MAY 16 2007

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**CITY COUNCIL AND
REDEVELOPMENT AGENCY STAFF
REPORT**

MEETING DATE: June 6, 2007

**PUBLIC HEARING ON PROPOSED FY 2007/08
OPERATING AND CAPITAL IMPROVEMENT PROGRAM
BUDGET**

RECOMMENDED ACTIONS:

- 1) Open and close public hearing
- 2) Discuss the FY 2007/08 Proposed Budget

Agenda Item # **11**

Prepared By:

[Signature]
Budget Manager

Approved By:

[Signature]
Finance Director

Submitted By:

[Signature]
City Manager

EXECUTIVE SUMMARY: On Monday May 14, 2007, City staff distributed the City Manager's Proposed FY 2007/08 Operating and Capital Improvement Budget to the City Council. On Wednesday, May 16, 2007 the City Manager presented the Proposed Budget to Council in official session and conducted a Council Budget Work Session on May 18, 2007. Findings from the work session include:

- The City is projected to have a positive operating margin for FY 2007/08.
- The Council recognizes the importance of increasing police officers to assist in improving public safety in a growing city.
- The Council recognizes the importance of adequate recreation facilities and programs to improve livability in the city.
- The Council recognizes that merely keeping staffing levels constant while the community grows may lead to service level reductions over time.
- The Council is focusing City redevelopment efforts in a smaller project area than in past years. Over a five year period the Redevelopment Agency will borrow up to \$100 million to fund projects, with a significant focus on the downtown.

Council requested additional information on funding for a part-time events coordinator. Attachment F includes the response from the Morgan Hill Downtown Association.

The City Council set June 6, 2007 for this public hearing and scheduled June 13, 2007 for adoption of the budget. The budget document is available to the public at the counter in City Hall, at the Morgan Hill Library, and on-line at the City's web page (<http://www.morgan-hill.ca.gov/>).

FISCAL/RESOURCE IMPACT: This Public Hearing has no direct fiscal or resource impact. However, the discussion and feedback from this hearing may have an impact on the budget scheduled to be adopted by Council on June 13, 2007

Attachments:

- (A) May 14, 2007 memorandum from Karl Bjarke to Ed Tewes: FY 2007/08-2011/12 Draft Five-year CIP and Feedback from PRC and Planning Commission Presentations
- (B) May 2, 2007 memorandum from Julie Behzad to Karl Bjarke: Planning Commission Comments on CIP 07/08 Presentation
- (C) April 18, 2007 memorandum from Julie Behzad to Karl Bjarke: Parks and Recreation Commission Comments on CIP 07/08 Presentation
- (D) Projection of Developed Park Land/1000 Population, prepared April 17, 2007
- (E) May 29, 2007 memorandum from Mark Murray to Ed Tewes: Budget Changes from the Proposed Budget to Adopted Budget
- (F) May 29, 2007 letter from Theresa B. Kiernan, Executive Director, Morgan Hill Downtown Association. Subject: Response to questions about the part-time events coordinator.



Memorandum

Public Works Department

Date: May 14, 2007

To: Ed Tewes, City Manager

From: Karl Bjarke, Deputy Director of Public Works/Engineering

Subject: FY 2007/08 – 2011/12 Draft Five-Year CIP and
Feedback from PRC and Planning Commission Presentations

Public Works staff is pleased to submit the FY 2007/08–2011/12 five-year draft CIP for City Council review and adoption. Attached is the final draft version of the CIP which provides a balance of projects consistent with the Council's goals and addressing the infrastructure and recreation needs of the community.

The draft five-year plan has been reviewed by both the Parks and Recreation Commission and the Planning Commission. Public Works staff took comments and recommendations from both commissions to be forwarded to the City Council. The PRC presentation, which only included the Parks and Public Facilities portions of the CIP, was given at their April 17, 2007 meeting. The comments received from the PRC are attached. The Planning Commission heard a presentation of the full draft CIP at their April 24, 2007 meeting and their comments are also attached.

As you know, the Planning Commission plays an important role in the annual CIP adoption process by finding that the five-year CIP is consistent with the City's General Plan. After hearing the presentation made at their April 24th meeting, the Planning Commission found that only the FY 2007/08 portion of the CIP is consistent with the General Plan, not the remaining out years of FY 2008/09 through 2011/12. In their Resolution of Approval they conveyed this and singled out certain projects that they felt needed attention for future CIP's. As in past years the Planning Commission feels strongly that the City should do a better job of acquiring park land and constructing more parks to meet the goal of 5 acres per 1,000 residents. In addition, the Commission feels a third Fire Station should be in the CIP.

Atchmts. FY 2007/08-2011/12 CIP
April 18, 2007 PRC Feedback Memo
May 2, 2007 PC Feedback Memo
Projection of Developed Parkland Worksheet

Cc. Jim Ashcraft, Director of Public Works
Julie Behzad, Senior Civil Engineer

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Jay Jaso, Management Analyst



Memorandum

Public Works Department

Date: May 2, 2007

To: Karl Bjarke, Deputy Public Works Director

From: Julie Behzad, Senior Civil Engineer

Subject: Planning Commission Comments on CIP 07/08 Presentation

The following are the comments and concerns raised by the Planning Commission during the presentation of the CIP 07/08-11/12 at their regular meeting of April 24, 2007:

PARK FACILITIES

1. Parks Land Purchase – 110097

The Planning Commission is concerned that the City is not making enough progress toward the General Plan goal of 5 acres of parkland/1000 residents. At the end of the year 2020 with the population projection of 50,000, there should be approximately 250 acres of park land in the City of Morgan Hill and the City only has approx. 160 acres now. The City should be acquiring more than 5 acres per year from now until 2020.

The City should be making larger parks a priority.

For FY 07/08, how committed is the City Council to buying park land? Do we still need to revisit the maintenance portion of the project?

Park land near the Butterfield corridor is lacking.

2. West Little Llagas Creek Trail – 117001

This project needs to coordinate with the Downtown Project, parks and trails connections.

3. Open Space Acquisition – 125004

Is there a time limit to use the Open Space Fund?

Can this fund be used to acquire parks land / green belt property to be used by public?

Can the open space areas be opened up as parks? Could El Toro become a mountain park?

4. Downtown Parks & Pathways – 131007

Is this park included in the Parkland area/1000 residents calculation?

The City should utilize properties that it owns for downtown parks.

PUBLIC FACILITIES

5. New Fire Station – 231003

Is there a deadline for the Council Public Safety and Community Services Committee to propose their recommendation to the City Council regarding the new fire station?

Insurance rates should be considered as home values raise and fire fighting capability remains the same.

\$2 Mil. annual cost to operate a new fire station is probably outdated and too low.

SANITARY SEWER

The City should start planning for the use of recycled water and the CIP should carry a future project for water recycling.

The sizes of all the sanitary sewer mains being proposed in the Downtown area should be revisited to account for the higher housing density levels recently approved.

STORM DRAINAGE

6. Butterfield Detention Basin – 420001

The City should consider a dual use of the basin such as a park.

STREETS & ROADS

7. Butterfield Blvd North/Madrone Parkway Extension

Planning Commission agrees with the extension of Butterfield up to Madrone Parkway but doesn't see the benefit of extending Madrone Parkway to Hale. Planning Commission believes that the City should focus on the Hill Road corridor to help the emergency response time.

8. Downtown Street Revitalization – 5DSR08

There is no specific scope nor has the location been identified for the Planning Commission to find it consistent with the General Plan.

Architecturally pleasing bus stops with shelters should be installed downtown.

9. Santa Teresa Construction – 546007

The City should talk to PG&E regarding their facilities near the Main/Hale intersection. Also, staff should look into the transition of 2 lanes south of Main into 4 lanes north of Main Avenue.

GENERAL

Planning Commission members would like to see past expenditure information for CIP projects that carry over multiple years to help them determine if the proposed 5-year CIP is consistent with the General Plan. The information requested includes CIP money spent in previous fiscal years. They have asked for this information in the past and have not received it.

The commissioners feel strongly that the City is behind in the parks land purchasing and in constructing a new fire station and are concerned that at some point it will be too late to catch up.

In conclusion, the commissioners agreed to a motion to find the methodology for consistency between the CIP and the General Plan to be valid for only the first year of the 5-year proposed plan (FY 07/08). Further, they requested that Public Works staff present a plan for purchasing park lands and a fire station.



Memorandum

Public Works Department

Date: April 18, 2007

To: Karl Bjarke, Deputy Public Works Director

From: Julie Behzad, Senior Civil Engineer

Subject: Parks and Recreation Commission Comments on CIP 07/08 Presentation

The following are the comments and questions raised by PRC during the presentation of CIP 07/08-11/12 at their regular meeting of April 17, 2007:

PARK FACILITIES

- 115000 Aquatics Center
Is there enough property on the Aquatic site to add a sport field instead of the next phase of Aquatic?
- 125004 Open Space Acquisitions
What is the exact location of the property east of Hill Road and north of E. Dunne designated to be acquired for open space?
- 126A05 Demonstration Water Conservation Project
Why didn't we continue the theme of demonstration garden on the new library project?
Did the County pay for their share of the Courthouse Plaza?
Are we looking into adding any activity elements for the kids in this project?
- 131007 Downtown Parks & Pathways
This project needs to be consistent with the City of Morgan Hill Trails and Natural Resources Study.

PUBLIC FACILITIES

There were several questions that Staff responded to during the presentation, which satisfied the commissioners' questions.

PROJECTION OF DEVELOPED PARK LAND/1000 POPULATION BASED ON A DRAFT 07/08 - 11/12 CIP

Prepared April 17, 2007

<u>PROJECTS SINCE PARKS MASTER PLAN</u>	<u>YEAR OF COMPLETION</u>	<u>ACREAGE</u>
Community Playhouse	2003	0.5
Community & Cultural Center	2002	5.5
Centennial Recreation Center	2006	8.0
Butterfield Linear Park	2009	2.3
Parks Land Purchase	2011	5.0
Outdoor Sports Center	2007	38.0
Aquatics Center	2004	8.0
W. Little Llagas Creek Trail	2009	1.0
Courthouse Plaza Demonstration Garden	2007	<u>0.3</u>
	Subtotal	68.6
Existing Park Land per 2001 Parks, Facilities and Recreation Programming Master Plan		<u>85.8</u>
	Subtotal	154.4
HOA Park Space added (2002 through 2011) 1 ½ Ac/Yr x 9 Yr (50%)		6.8
Schools Joint Use (Nordstrom 3.96 Ac, Paradise 2.62 Ac)		6.5
San Pedro Ponds Trail 28 Ac (10%)		2.8
Alicante Park (from Alicante Developer – Peet Road)		<u>4.0</u>
TOTAL PARKS ACREAGE THROUGH 2011		174.5

Total parks acreage through 2010 = 174.5 Acres
Estimated population in 2011 = 40,700

Estimated park land/1000 population in 2011:

$$174.5 \text{ Acres} / 40.7 = \underline{4.29 \text{ Acres/1000 Population}}$$



Memorandum Finance Department

Date: May 30, 2007

To: Ed Tewes, City Manager
Jack Dilles, Finance Director

From: Mark Murray, Budget Manager *MM*

Subject: Budget Changes from the Proposed Budget to Adopted Budget

The attachment details the budgetary actions, summarized below, I recommend be included in the Adopted Budget. Most of the changes are technical and non-controversial. Others may be considered programmatic. Although we have no knowledge of additional changes at this time, it is possible we will become aware of additional items prior to and during the Public Hearing.

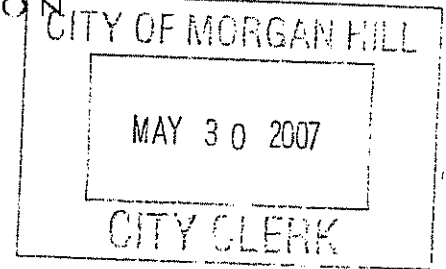
The recommended adjustments affect three different funds with the critical adjustments in the General Fund. The recommended adjustments increase General Fund resources \$31,997. Expenditures increase \$14,354, for a net General Fund resource increase of \$17,643.

Technical changes

- GF - Reduce overtime in Human Resources by \$12,500. The action was recommended, but inadvertently overlooked during technical balancing.
- GF - Increase revenues in Recreation by \$11,997. Revenues are from an increase to the contract with the YMCA.
- GF - Increase expenditures in Recreation by \$6,854. Increased program costs resulting from the increase to the YMCA contract.
- GF - Move Library maintenance costs from fund 740 to Parks Maintenance (010-5440), increasing General Fund costs by \$20,000. This move maintains consistency with past operational practice, which funds Parks Maintenance costs in 010-5440.
- GF - Move Library Impact Fund transfer of \$20,000 from fund 740 to the General Fund, increasing General Fund resources by \$20,000. This action moves the revenues backing the Library maintenance costs from fund 740 to fund 010.

Programmatic Changes

- Move Groundskeeper position from Fund 202 to Park Maintenance (010-5440), increasing General Fund costs by \$60,558. This move maintains consistency with current operational practice.
- Reduce transfer to Street Fund by \$60,558, reducing General Fund costs. Reduces the revenues backing the cost of the groundskeeper position. The General Fund transfer to Street Operations will be reduced from \$100,000 to \$39,442.



May 29, 2007

Mayor Steve Tate and Members of the Council
City Hall
17555 Peak Avenue
Morgan Hill, Ca 95037

Dear Mayor and Council members,

I've received some additional questions regarding our request for an additional \$20,000 to hire a part-time event coordinator. Before I answer them, it's important that I make the following three points:

1. We are both on the same page regarding the desire for the MHDA to financially support itself.
2. The hiring of a part-time event coordinator will be an effective fix, but not a quick one.
3. Typically the RDA/City continues to support downtown associations anywhere from 30 to 40% of an association's budget. It is important for the RDA/City to remain a partner in some capacity.

The MHDA's goal is to have future discussions on the subject of what percentage the City will be supporting the Association in any given year rather than the discussion that we currently face. We believe the best way for us to become more self-sufficient is to hire an individual whose sole purpose is to focus daily on the creation of events or happenings in the downtown, to not only generate more foot traffic for the merchants, but additional funding for the MHDA. When we visited other downtowns in March, 2007 all of the Associations that we talked to indicated two key points with us:

- The best decision they made for their association and their downtown was to hire an event coordinator, and
- Their initial hire was supported by their City and they have been successful in raising at least one-third of their budget from events.

The following are my answers to your questions regarding the MHDA request:

1) How will the \$20K generate revenue and how much?

The \$20K will allow the MHDA to hire a part-time person to research possible income generating opportunities and solicit information from our merchants as to the type of event and magnitude of attendance and impact on merchant's day to day activities. In twelve months time we expect that events could produce at least 50% of the cost of the additional employee net of event expenses. Obviously, it takes time to develop a following for any event and we feel that it is prudent to be conservative in our estimates.

2) Please prepare a 3 year budget showing how the funding can be reduced over that time frame. It would also be helpful to show how the \$75,000 can be reduced over time.

This request can be made part of the new scope of work for the part-time event coordinator. Obviously, this question will entail considerable research and time, but would be well within the work plan that would be developed for the event program of the MHDA.

3) *What can the MHDA do with \$10,000?*

Our initial request was going to be for a full-time event coordinator at a cost of \$40,000. We reduced that request to \$20,000 because the Board felt that we could show a higher return on investment on the part-time position. Understanding the time and effort that goes into successful income-producing events we anticipate that eventually the events coordinator position will be a full-time position and the goal is to fund 100% of the position from proceeds of the events. This should be a motivating factor for the person hired to maximize their time and effort so that their job could be full-time rather than part-time. \$10,000 would only reduce the pool of applicants for the position and stretch out the time frame to start new events in the downtown

4) *If this a one-time increase how will it be funded in the future?*

Although we do expect to turn a profit on the initial events over the next year, the MHDA does not anticipate that it will generate 100% of the cost of the position. We only asked for one year of funding in anticipation of returning to the city council in a year to update our progress and give an accounting of our status which has been the norm for our funding.

5) *What types of special events are envisioned? Downtown has complained in the past about street closures, will the events close streets and how will the merchant concerns be addressed*

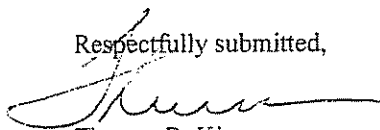
It is hard at this time to specifically identify events. Generally, we expect to have a combination of downtown merchant events and larger community wide events. We plan to include the merchants and property owners in the selection, timing and design of the events. We feel that if the merchants have a role in identifying the type of event and scope of impact (i.e. street closures) that they will take ownership of the event and be less likely to complain about aspects if they are directly involved up front.

6) *Can the executive director plan these events? If not, why not? If not, why not? Assuming the concern is workload and priorities, if the executive director took on this task, what other tasks would not be completed*

No. The workload in dealing with day to day issues as well as the ED wearing all the hats makes devoting the necessary time to research and plan events impossibility. In order to realize the maximum benefits of the funding request we feel that the position and scope of work should be focused on one thing only, to create successful profitable events that benefit the merchants, the city and the MHDA.

As I mentioned earlier in this correspondence, we are both on the same page regarding the desire for the MHDA to financially support itself. Our partnership with you and time are the two most important elements that are needed to get us headed in that direction. We sincerely appreciate all that you have done to date to keep our doors open and our Association viable. We hope you will support us in our effort to create a position as part of our operation specifically geared to income producing activity solely. I anticipate that you may have additional questions or concerns in light of the answers you have before you. I look forward to addressing them and more at the City Council meeting on Wednesday, June 6th, 2007.

Respectfully submitted,



Theresa B. Kiernan
Executive Director



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Memorandum

To: Mayor and City Council
From: Garrett Toy, *Garrett* Director of Business Assistance & Housing Services
Date: June 1, 2007
Re: **REGIONAL TOURISM REQUEST**

At the May 18th City Council budget workshop, the Council discussed the Morgan Hill Chamber of Commerce's request for \$50,000 for regional tourism efforts. As you know, in FY06-07 the Agency had a contract with the Chamber for \$125,000 of which \$36,000 was allocated to regional tourism activities. During the workshop, the Council raised questions regarding this funding request. Attached is an e-mail from the Chamber responding to those questions.

For FY07-08, the BAHS budget maintains the same \$36,000 funding level for regional tourism as in FY06-07. The action before the Council is whether to increase the funding level for regional tourism to \$50,000 in the FY07-08 BAHS budget. Please note that the specific scope of work and contract with the Chamber for regional tourism activities would be brought to the Agency/Council for approval in July.

Garrett Toy

From: Daniel L. Ehrler [dehrler@morganhill.org]
Sent: Wednesday, May 30, 2007 4:38 PM
To: Garrett Toy
Subject: Regional Tourism
Importance: High

Dear Garrett:

Please see, below, regarding Council follow-up items that you sent to me

1) Some type of measures to gauge/track the impact of regional tourism efforts on Morgan Hill. Does the visitor's bureau have any data?

The Gilroy Visitors Bureau uses a tracking sheet that includes information on the following: Walk-Ins by City/State, Number in the Party, Call-Ins by City/State, Email from What City, Dining Inquiries, Wine & Brewery Interest, Historical Interest, Outdoor Recreations, Gilroy Gardens, Garlic Festival (we would insert Mushroom Mardi Gras/4th of July/Taste of Morgan Hill), Shopping Interest, Lodging Inquiries, Map Requests, Event Information, Regional Interest, and How did you find us? column

The Morgan Hill Chamber will use this as a model and create a similar tool for its office. We will also use elements of this tracking sheet to create a form that visitors to Morgan Hill could easily and quickly complete as they register at hotels and visit targeted hospitality business in Morgan Hill, such as Andy's Orchard, Guglielmo and Pedrizzetti Wineries and several restaurants and retail stores

The Gilroy Visitors Bureau also tracks their TOT quarterly, and this is something we need to do in Morgan Hill and compare it to the previous year. In addition, tracking website hits, which are unique to the regional tourism effort and specifically to Morgan Hill, needs to be done. The Gilroy Visitors Bureau tracks the pages visited and which ones are visited the most, such as wineries and events. This is also to be duplicated by the Morgan Hill element of the regional tourism partnership

2) How much private investment has been leveraged and estimated to be leveraged (e.g., ads purchased in magazines to offset costs)?

The Gilroy Visitors Bureau received \$14,000 from its private sector partners in 06-07. \$6,000 of that was used for the Central Coast Tourism Council's *Visitors' Guide* advertisement, and the remainder was used for ads in Sunset, Discover and VIA Magazines, as well as their website. The Morgan Hill Chamber of Commerce received \$3,750 from private sector partners in 06-07, which was used for the Central Coast Tourism Council's *Visitors Guide* advertisement. We anticipate a slight increase in the CCTC *Visitors Guide* ad spaces but will work to create private sector partnerships that will cover the costs of the 8 CCTC advertisement locations, as well as support advertising efforts in the other magazines the South Santa Clara Valley Tourism Partnership will use to promote our region

3) Any other benefits of doing this

Morgan Hill would NOT have a presence at the level it has had in 06-07 if it were not for the South Santa Clara Valley Tourism Partnership. Morgan Hill would not have been present at trade shows in which thousands of collateral pieces from Morgan Hill businesses were distributed if it were not for the SSCVTP. Morgan Hill and the businesses that participated in the Fam Tour and trade shows in 06-07 would still be "I didn't know that was there" place along Highway 101 if it were not for the SSCVTP. Morgan Hill would not already be recognized as half of what is now the "Gateway to the Central Coast" if it were not for the SSCVTP. Morgan Hill's general fund will benefit from sales and TOT tax because of the efforts of the SSCVTP. Many of Morgan Hill's businesses will benefit from being "discovered" and "rediscovered" by people who read about the "Gateway to the Central Coast" or received one of the thousands of collateral pieces that will be distributed over the next three years. Morgan

Hill MUST support what was its idea that a regional tourism program be developed and given the opportunity to succeed. In its first eleven months, it has already begun to reap success.

Please notify me of any clarification needs, Garrett, and thank you, again, for your invaluable time

Most sincerely,
Dan

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